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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,993	05/10/2001	Daniel Joseph Fox	C6585(C)	5811

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UNILEVER
PATENT DEPARTMENT
45 RIVER ROAD
EDGEWATER, NJ 07020

EXAMINER

BOYER, CHARLES I

ART UNIT	PAPER NUMBER
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1751

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DATE MAILED: 02/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/852,993

Applicant(s)
Fox et al

Examiner
Charles Boyer

Art Unit
1751



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on May 10, 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4 6) ☐ Other:

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DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

2. Claims 1-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Clarke et al,

US 6,303,565.

Clarke et al teach fabric softening compositions (see abstract). An example of such a composition comprises 0.75% tallow alcohol, silicone emulsion, and the balance water (col. 9, example 1A). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

3. Claims 1-6, 8-12, 14-17, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Trinh et al, US 5,977,055.

Trinh et al teach fabric softening compositions (see abstract). An example of such a composition comprises 2.3% hexylene glycol, 17% hexanediol, and the balance water (col. 54, example IX). Another example comprises 4% hexanediol and the balance water wherein the

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composition is dispensed from a sprayer (col. 55, example XII). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

Regarding applicant's recitation of what is disclosed by the instructions, "Where sole distinction set out in claims over prior art is in printed matter, there being no new feature of physical structure and no new relation of printed matter to physical structure, such claims may not be allowed; it is only where claims define either new features of structure or new relations of printed matter to structure, or both, which new features or new relations give rise to some new and useful function, effect, or result, that claims may be allowed; particular branch of art considered does not change these principles." *Ex parte Gwinn* 112 USPQ 439. As the compositions are anticipated, and the instructions do not give rise to a new and useful function, effect or result, they do not contribute a patentable difference to applicant's invention.

4. Claims 1-6, 8-12, 14-17, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Roberts et al, US 4,242,377.

Roberts et al teach fabric softening compositions (see abstract). An example of such a composition comprises 1% cetyl alcohol, 15% quaternary ammonium surfactant and the balance water where the composition is dispensed from a pressurized sprayer (col. 12, example 3). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

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5. Claims 1-4, 8-10, 14-17, 19 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Frankenbach et al, US 6,495,058.

Frankenbach et al teach wrinkle removing compositions dispensed from spray dispensers (see abstract). An example of such a composition comprises hexylene glycol and the balance water wherein the composition is sprayed onto a fabric (col. 60, example 5). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

6. Claims 1-4, 8-10, 14-17, 19 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Trinh et al, US 5,968,404.

Trinh et al teach wrinkle removing compositions dispensed from spray dispensers (see abstract). An example of such a composition comprises diethylene glycol and the balance water wherein the composition is sprayed onto a fabric (col. 51, example VIb). As this reference meets all material limitations of the claims at hand, the reference is anticipatory.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frankenbach et al, US 6,495,058.

Frankenbach et al are relied upon as set forth above. Cyclodextrins and surfactants may be present in their wrinkle removing compositions (col. 61, example 21). Note that after the composition is sprayed onto a fabric, the fabric may be stretched or allowed to hang (col. 53, lines 20-30). It would have been obvious to one of ordinary skill in the art to incorporate cyclodextrin and surfactants into example 5 and so meet the material limitations of the claims at hand, as such components are taught as preferred ingredients in the wrinkle removing compositions of Frankenbach et al.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Boyer whose telephone number is (703) 308-2524. The examiner can normally be reached on Monday-Friday from 9:30 AM - 6:00 PM.

If reasonable attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta, can be reached on (703) 308-4708. The fax phone number for this Group is (703) 872-9310 for non-after-final amendments and (703) 872-9311 for after-final amendments.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0661.

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Charles Boyer

A handwritten signature in cursive script that reads "Charles Boyer". The signature is written in black ink and is positioned to the right of the printed name "Charles Boyer".

February 10, 2003